

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

CHARLES N. BROWN,

Civil No. 08-621-BR

PlaintiffM,

ORDER

v.

MARK NOOTH,

Defendants.

BROWN, Judge.

Plaintiff, an inmate at the Snake River Correctional Institution ("SRCI"), brings this civil rights action pursuant to 42 U.S.C. § 1983 *pro se*. Currently before the Court is Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction (#5) (the "Motion"). For the reasons that follow, the Court DENIES Plaintiff's Motion.

BACKGROUND

Plaintiff's Complaint alleges Defendants failed to protect Plaintiff from an inmate assault on December 24, 2007. In his Motion, Plaintiff seeks a temporary restraining order and preliminary injunction prohibiting Defendants from moving Plaintiff to certain units at SRCI or from moving Plaintiff to a facility that is not wheelchair compatible, with a sufficient law library and word processing system.

DISCUSSION

I. Temporary Restraining Order

Pursuant to Fed. R. Civ. P. 65(b)(1)(A), this Court may issue a temporary restraining order without written or oral notice to Defendants only if "specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition."

Plaintiff does not present specific facts clearly showing he is in imminent danger of being moved to another prison unit or facility, or that he is in imminent danger of suffering immediate or irreparable injury even if he is moved. Accordingly, this Court cannot issue the temporary restraining order sought without affording notice and opportunity to be heard to Defendants.

II. Preliminary Injunction

Pursuant to Fed. R. Civ. P. 65(a)(1), "no preliminary injunction shall be issued without notice to the adverse party." Plaintiff's Motion includes neither a certificate of service nor a showing of why notice should not be required in this case. Accordingly, Plaintiff's motion is denied.

CONCLUSION

Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction (#5) is DENIED without prejudice to Plaintiff's right to refile the motion curing the deficiencies noted above.

IT IS SO ORDERED.

DATED this 4th day of June, 2008.

/s/ Anna J. Brown

ANNA J. BROWN

United States District Judge